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U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GERARDO RIOS ORTIZ; MARIA DEL
CARMEN MEJIA-DE RIOS,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-74327

Agency Nos. A73-880-245
A79-520-871

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted May 15, 2006**

Before: B. FLETCHER, TROTT, and CALLAHAN, Circuit Judges

Gerardo Rios Ortiz and his wife, Maria del Carmen Mejia-de Rios, natives
and citizens of Mexico, petition pro se for review of the Board of Immigration
Appeals' summary affirmance of an immigration judge's denial of their

* This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

applications for cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252, and we dismiss in part and deny in part the petition for review.

Rios Ortiz contends that he was eligible for cancellation of removal. The immigration judge found that Rios Ortiz failed to show that his removal would result in exceptional and extremely unusual hardship to a qualifying relative. 8 U.S.C. § 1252(a)(2)(B)(i) deprives us of jurisdiction to review this discretionary determination, and so we dismiss the petition for review in part. *See Romero-Torres v. Ashcroft*, 327 F.3d 887, 891 (9th Cir. 2003).

Rios Ortiz also contends that the Board's summary decision denied him due process. We deny in part the petition for review because this contention is foreclosed by *Falcon Carriche v. Ashcroft*, 350 F.3d 845, 848-53 (9th Cir. 2003).

Mejia-de Rios contends that the immigration judge erred in concluding that she failed to satisfy the continuous physical presence requirement of 8 U.S.C. § 1229b(b)(1)(A), and the Board denied her due process in refusing to accept her untimely brief in which she would have developed this issue.

An alien who departs the United States pursuant to an administrative voluntary departure in lieu of deportation or removal proceedings interrupts his physical presence in this country. *Vasquez-Lopez v. Ashcroft*, 343 F.3d 961, 972 (9th Cir. 2003) (per curiam).

Mejia-de Rios testified that immigration officials detained her at her workplace and took her to Mexico. She signed documents in Spanish acknowledging her right to a hearing before an immigration judge. Counsel argued that Mejia-de Rios did not understand the documents and was not given a choice about signing them, but she did not testify as to these points.

The record shows that Mejia-de Rios knowingly and voluntarily accepted administrative voluntary departure in lieu of deportation proceedings. *See id.* We therefore deny the petition for review as to Mejia-de Rios.

PETITION FOR REVIEW DISMISSED IN PART and DENIED IN PART.